

CENTRAL INTELLIGENCE AGENCY  
WASHINGTON, D.C. 20505

18 APR 1978

*Rec. 4/21/78*

Mr. Curtis Mullins

STAT

Dear Mr. Mullins:

This is to acknowledge receipt of your letter dated 8 February 1978, stating that you had not heard from us regarding your Privacy Act request of 25 May 1977.

We wish to advise you that we replied to your request on 21 September 1977, informing you that we were unable to locate any records under your name. Our letter was returned as you had moved and left no forwarding address. We have enclosed a copy of that letter for your retention.

Sincerely,

[Redacted Signature]

Gene F. Wilson  
Information and Privacy Coordinator

STAT

Enclosure

CENTRAL INTELLIGENCE AGENCY  
WASHINGTON, D.C. 20505

21 SEP 1977


Mr. Curtis Mullins

STAT

Dear Mr. Mullins:

In compliance with your request and pursuant to the Privacy Act of 1974 and regulations promulgated thereunder, we have searched those Agency systems that might contain information regarding you and find that we were unable to identify any information or record that pertains to you.

STAT

  
Gene F. Wilson  
Information and Privacy Coordinator

CENTRAL INTELLIGENCE AGENCY  
WASHINGTON, D.C. 20505

23 MAY 1978

Michael Ratner, Esq.  
351 Broadway  
New York, NY 10013

Dear Mr. Ratner:

This acknowledges receipt of your 28 April 1978 letter regarding your client, Mr. Curtis Mullins.

In response to his initial request for information on himself, we searched the following systems:

- CIA-23 Polygraph Files ✓
- CIA-30 Applicant Files ✓
- CIA-31 Current Employees and  
Former Employees ✓
- CIA-32 Consultant and Independent  
Contractor Records ✓
- CIA-42 Library Open Literature Ready  
Reference File ✓
- CIA-49 Directorate of Operations  
Records Systems ✓
- CIA-51 Security Duty Office Events  
Reports ✓
- CIA-52 Special Clearance System ✓
- CIA-54 Central Badge System ✓
- CIA-56 Security Analysis Records ✓
- CIA-57 Security Records ✓

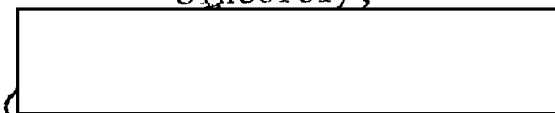
As for additional searches, be advised that we can conduct searches for information on the Black Panthers and possibly provide information to you under the Freedom of Information Act. Also, it may be possible to locate information from anti-war activist and other black nationalist groups' files, but you must identify the organizations in which you are interested. However, in our reading of your request, you are apparently interested in locating documents which mention Mr. Mullins. As such, your request is not reasonable since you have not adequately described the records you seek. We will not search through a volume of

records looking for a name. Had Mr. Mullins' name been indexed in our records systems, we would have surfaced this information and accounted for any documents found when we responded to his Privacy Act request.

On the other hand, if we are misreading your intent, we can initiate searches for information on any organization you wish to name. For your guidance, therefore, a copy of the Agency's schedule of fees for services provided under the Freedom of Information Act is enclosed. Please notify me immediately of your willingness to accept responsibility for all charges incurred in processing your request, or if there is an upper limit to what you are willing to pay. Be advised that all fees must be paid even if our record searches uncover no relevant documents, or if the documents found are deemed nonreleasable.

Pending clarification of your request and receipt of your agreement to pay fees, I am placing your request in suspense.

Sincerely,



Gene F. Wilson  
Information and Privacy Coordinator

STAT

Enclosure

WASHINGTON, D.C. 20505

Fees for Records Services

(a) Search and duplication fees shall be charged according to the schedule set out in paragraph (c) of this section for services rendered in responding to requests for Agency records under this part. Records shall be furnished without charge or at a reduced rate whenever the Coordinator determines that waiver or reduction of the charge is in the public interest because furnishing the information can be considered as primarily benefiting the general public. The Coordinator also may waive or reduce the charge whenever he determines that the interest of the government would be served thereby. Fees shall not be charged where they would amount, in the aggregate, for a request, or a series of related requests, to less than \$4.

(b) Where it is anticipated that the fees chargeable under this section will amount to more than \$25, and the requester has not indicated in advance his willingness to pay fees as high as are anticipated, the requester shall be promptly notified of the amount of the anticipated fee or of such portion thereof as can readily be estimated. In appropriate cases an advance deposit may be required. The notice or request for an advance deposit shall extend an offer to the requester to confer with the Coordinator in an attempt to revise the request in a manner which will reduce the fees and meet the needs of the requester. Dispatch of such a notice or request shall suspend the running of the period for response by the Agency until a reply is received from the requester.

(c) The schedule of fees for services performed in responding to requests for Agency records is established as follows:

(1) For each one quarter hour spent by clerical personnel in searching for a record, \$1;

(2) For each one quarter hour spent by professional personnel in searching for a record, \$2;

(3) For computer search, \$55;

(4) For copies of paper documents in sizes not larger than 8 1/2 x 14 inches, \$0.10 per copy of each page; and

(5) For duplication of non-paper media or any document that cannot be reproduced on a standard office copier actual direct cost.

July 4, 1978

Admiral Stansfield Turner, Director  
Central Intelligence Agency  
Washington, DC 20506

Dear Admiral Turner:

STAT In reference to your Information and Privacy Coordinator's (Mr. Gene F. Wilson) letter of 5/23/1978 addressed to my attorney, Mr. Michael Ratner (enclosure 1), I refer you to my initial correspondence dated 5/23/1977, and addressed to [redacted] Freedom of Information Coordinator, Central Intelligence Agency (enclosure 2).

My request was and still is for a copy of all files indexed or maintained under my name and all documents containing my name. I like many millions of Americans cannot afford the fees you charge for information I believe has been gathered illegally.

The amended Act, Freedom of Information Act (5 U.S. Code, Section 552) permits you to waive any fees if that 'is in the public interest because furnishing the information can be considered as primarily benefiting the public'. I believe my request plainly fits that category and ask you to wave any fees, and begin your search forthwith.

Truly yours,

*Curtis Mullins*  
Curtis Mullins

[redacted]

c.c.: Jacob Javits, Senator  
Governmental Affairs Committee

Frank Church, Senator  
Washington, DC

Mr. Gene F. Wilson  
Central Intelligence Agency

STAT [redacted]  
Central Intelligence Agency

Seymour M. Hersh  
The New York Times

26 JUL 1978

2 cc. 7/27/78  
gmm

Mr. Curtis Mullins

[Redacted]

Dear Mr. Mullins:

Your letter of 4 July 1978 to the Director was referred to my office for direct response.

As I informed you in my letter of 21 September 1977, we conducted a search of all Agency files which might be expected to contain information concerning you and found no records indexed or maintained under your name. If you desire that we search our records for information pertaining to the Black Panthers, or other black nationalist groups, we will comply--but only if you agree in advance to the payment of all reasonable search and copying fees. You cannot expect us to do a document-by-document, page-by-page review of other files on the off-chance that we might come across unindexed references to you. This would be research, and we are neither required nor authorized by Federal law to perform such services on behalf of members of the public. If we are unable to retrieve references to you by a search conducted under your name, then, for all practical purposes, no information exists. Moreover, the fact that the search under your name produced negative results makes it appear probable that there would be no references to you in any files maintained on organizations such as the Black Panthers either. Otherwise, there is a high likelihood that the references would have been routinely indexed.

Please inform me if you wish us to proceed with a search for information on the Black Panthers, or any other organizations. A copy of our schedule of fees was forwarded on 23 May 1978 to your attorney, Michael Ratner. We will need your commitment to pay all fees before we can undertake such a search.

Sincerely,

[Redacted]

Gene F. Wilson

STAT

OLC #78-5310

United States Senate

RECEIVED

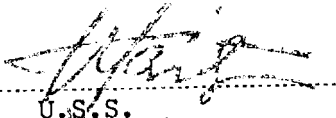
SEP 10 1978

IND  
MULLINS

Respectfully referred to:

C. I. A.  
WASHINGTON, D.C. 20505

Because of the desire of this office to be responsive to all inquiries and communications, your consideration of the attached is requested. Your findings and views, in duplicate form, along with return of the enclosure, will be appreciated by

  
U.S.S. Jacob K. Javits, U.S.S.  
ATTN: LINDA MONTEFUSCO &  
MARION CAMPBELL  
(202) 223-6542

Form #2



394814 STAT  
September 19, 1978

Mr. Gene F. Wilson  
Central Intelligence Agency  
Washington DC 20505

Dear Mr. Wilson:

This letter constitutes my request for a waiver of fees in connection with my request for information pertaining to myself which may be located in files maintained on the Black Panthers and other black nationalist groups.

I have requested and here repeat my request that you waive these fees on the ground that "furnishing the information can be considered as primarily benefitting the general public."

It is clear that, as the Attorney General's Memo (AG's 1974 FOI Amends Memo) indicates, the waiver is discretionary. (p.16.) However, as the AG Memo notes:

Where an agency perceives a substantial question whether release of requested information can be considered as "primarily benefitting the general public," it should consider exercising its discretion under this provision. What is required is the application of good faith in determining whether public payment should be made for essentially public benefits. In its consideration of the matter, the agency need not employ any particular formalized procedure, and may draw upon both special expertise and general knowledge concerning such matters as the size of the public to be benefited, the significance of the benefit, the private interest of the requester which the release may further, the usefulness of the material to be released, the likelihood that tangible public good will be realized, and other factors which may be pertinent to the appropriateness of public payment. Deliberate, irrational discrimination between one case and the next is of course improper; but neither is it necessary to develop a system of rigid guidelines or inflexible case precedents. (p.15)

The Conference Report says this about fees:

In addition, the conference substitute retains the agency's discretionary public-interest waiver authority but eliminates the specific categories of situations where fees should not be charged.

By e... Approved For Release 2004/10/28 : CIA-RDP81M00980R000300040015-9  
conferrees do not intend to imply that agencies should actually charge fees in those categories. Rather, they felt, such matters are properly the subject for individual agency determination in regulations implementing the Freedom of Information law. The conferrees intend that fees should not be used for the purpose of discouraging request for information or as obstacles to disclosure of requested information. (Conference Report, No. 93-1330, p. 8)

The Senate Bill approved unanimously by the Judiciary Committee contained the language finally approved. The Senate Committee report (93-354) states that "(t)his public-interest standard should be liberally construed by the agencies..." (p. 12).

Also of relevance in the legislative history, I believe, is the decision of attorneys fees and court costs-- which have an analogous purpose-- that the law should work so "that the average citizen can take advantage of the law to the same extent as the great corporations."

The Senate Report relating to attorney's fees reads as follows:

It should be noted that the criteria set out in this subsection are intended to provide guidance and direction-- not airtight standards -- for courts to use in determining awards of fees. Each criterion should be considered independently, so that, for example, newsmen would ordinarily recover fees even where the government's defense had a reasonable basis in law, while corporate interests might recover where the withholding was without such basis.

(Senate Report W. 93-354, pp. 19-20.)

Returning from this consideration of the analogous issue of attorney's fees to the direct question, Congress clearly intended that assessment of fees not be a bar to the use of the FOIA by private individuals or public interest groups. At the same time, it permitted the charging of fees so that corporations or individuals using the Act for private gains could be charged the cost of the services provided.

The legislative history of the provision calling for a liberal interpretation of the phrase "primarily benefiting the public" suggest that all fees should be waived whenever the release of the information contributes to public debate on an important policy issue and when the person requesting the information is doing so for the purpose of contributing to the "uninhibited, robust and wide-open" debate on public issues which the Supreme Court has repeatedly held to be protected by the First Amendment (see, e.g., New York Times V. Sullivan.)

This approach suggests that all fees should be waived if two criteria are met: (1) the information released will contribute importantly to public debate on important policy issues and (2) the information was requested to be used for that purpose.

The documents which are subject of this letter fit the two criteria set forth above, and hence I believe, should be provided with all fees waived.

In summary, Congress entrusted waiving of fees to the discretion of the agencies: it did so intending that the agencies interpret the provision liberally and consistently with Congress' intent that the Act contribute to public debate on major issues. The documents requested will in fact make an important contribution to that debate and were requested for that reason and will be used in pursuit of that objective.

Truly yours,



Curtis Mullins



STAT

c.c.: Senator Jacob Javits  
Governmental Affairs

Mr. Seymour M. Hursh  
The New York Times